

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
750 FIRST STREET NE SUITE 1100
WASHINGTON, D.C. 20002
(202) 326-6018
(202) 408-4998
http://www.naag.org

LYNNE M. ROSS
Executive Director

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Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, N.E., Suite 110
Washington, D.C. 20002

DOCKET FILE COPY ORIGINAL

Re: Verizon Request that the Commission Reconsider Its Third Report
and Order in CC Docket No. 96-115

Dear Ms. Dortch:

We, the undersigned Attorneys General, urge the Commission to deny Verizon's request to reconsider the Commission's Third Report and Order in CC Docket No. 96-115' and preempt all "inconsistent" state regulation of customer proprietary network information ("CPNI"). Verizon argues that failing to preempt the states will negate the Commission's exercise of its authority and will result in a violation of Verizon's First Amendment rights. We urge the Commission to deny Verizon's request, for the reasons discussed below.

Verizon's request ignores the states' longstanding ability to protect consumers through enactment of substantive standards and by enforcement of existing state laws. Consumer protection has traditionally been an area where the states' power to ensure fair competition and informed consumer choice has been preserved, not eliminated. This structure has worked well for many years, and no need for the sort of total exclusion of the states from this arena has been demonstrated.

Verizon, however, argues the importance of a single, federal standard by citing the need for uniformity and asserting that a failure to preempt the states will negate the Commission's exercise of its authority. In fact, businesses have long accommodated themselves to a range of state consumer protection statutes. Courts and regulatory agencies have, for years, engaged in a process of reconciling potentially or actually conflicting laws on a case-by-case basis through application of established legal principles to

'Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information: Third Report and Order and Third Further Notice of Proposed Rulemaking, CC Docket No. 96-115, FCC 02-214 (rel. July 25, 2002) ("Third Order").

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various factual situations or, where appropriate, determining that a state law impermissibly conflicts with a federal standard and is, therefore, preempted. The Commission has anticipated just such a process in its Third Order. The Commission's approach accommodates the needs of both businesses and consumers and provides the sort of flexibility necessary in a rapidly changing world, while preserving state sovereignty in an area where states traditionally have had a significant role.

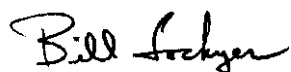
Verizon also asserts that a failure to exclude the states entirely from any regulation in connection with CPNI infringes on its First Amendment rights. As a basis for this far-reaching conclusion, Verizon asserts that the issue of CPNI has no "state specific" aspect and that there is, therefore, "no chance" that a state body could compile a record that would support an "opt-in regime that could satisfy First Amendment scrutiny." (Verizon petition, p. 14) This sweeping generalization prejudices the findings of inquiries that have not even taken place, assumes a static future, and is in direct contradiction of the Commission's careful conclusions. It also fails to recognize that the nature of the mechanism employed to obtain customer approval for the use or disclosure of CPNI is not the only issue raised in connection with CPNI. States may have an interest in the manner in which information is conveyed to consumers, if the notices distributed by the carriers are particularly confusing or unclear, as well as in the mechanism employed to obtain consumer approval for disclosure of CPNI. Verizon's request far exceeds the single issue of "opt-in" vs. "opt-out" and would preempt the states from any role with respect to CPNI.

Finally, nothing in the record before the Commission compels the prior and complete restraint of the exercise of state sovereignty that Verizon seeks. Verizon asks the Commission to take an extraordinary leap that is not founded on or supported by law, necessity, or the record in this matter.

Since the states have traditionally served as a laboratory for the development of effective laws and processes to protect consumers and promote fair competition, they must be allowed to be an effective force in the further development of privacy protection in the information age. Denying the states the ability to exercise their right to protect consumers by developing solutions to address new and changing issues neither advances the goal of an open, competitive marketplace, nor serves the best interests of consumers. We, therefore, respectfully urge the Commission to deny Verizon's petition for reconsideration.

If you or Commission staff have questions or comments with respect to this letter, please feel free to contact Sarah Reznick, NAAG's Consumer Protection Project Counsel, at 202-326-6016, or Blair Tinkle, NAAG's Legislative Director, at 202-326-6258.

Sincerely,



Bill Lockyer
Attorney General of California
NAAG President-Elect and
Co-Convener, NAAG Internet
Committee



A.B. "Ben" Chandler III
Attorney General of Kentucky and
Co-Convener, NAAG Consumer
Protection Committee



Patricia Madrid

Attorney General of New Mexico and
Co-Convener, NAAG
Consumer Protection Committee



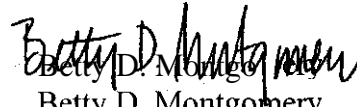
Roy Cooper

Attorney General of North Carolina and
Convener, NAAG Consumer Protection
Committee



Wayne Stenehjem

Attorney General of North Dakota and
Co-Convener, NAAG Consumer
Protection Committee



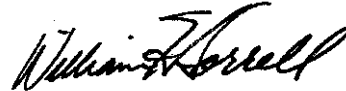
Betty D. Montgomery

Attorney General of Ohio and
Co-Convener, NAAG Consumer
Protection Committee



W. A. Drew Edmondson

Attorney General of Oklahoma and
NAAG President



William H. Sorrell

Attorney General of Vermont
NAAG Vice President and
Co-Convener, NAAG Consumer
Protection and Internet Committees



Christine O. Gregoire

Attorney General of Washington and
Convener, NAAG Internet Committee